



**CITY OF ABSECON
Municipal Complex
500 Mill Road
Absecon, New Jersey 08201**

PLANNING & ZONING
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**MAY 18, 2021
ZONING BOARD
MEETING MINUTES**

The meeting was called to order by Pat Malia at 7:00 p.m.

Flag Salute

Notification of Meeting

ROLL CALL

PRESENT: Baltera, Cottrell, Koussoulis, Lawler, Reilly, Seher, Malia
ABSENT: Famularo

OLD BUSINESS:

Vote: Minutes of April 20, 2021 meeting
Motion to approve – Matt Lawler – second – Greg Seher
All were in favor.

Vote: D&R for Appl. #2-2021 for Norma Jean Whittaker – 21-25 E. Colorado Avenue - Block 296 – Lot 9 for Certificate of Non-Conformity
Motion to approve: Greg Seher – Steve Baltera
ROLL CALL: Baltera, yes; Cottrell, yes; Koussoulis, yes; Lawler, yes; Reilly, yes; Seher, yes; Malia, yes

NEW BUSINESS:

Appl. #5-2021 for Geoffrey Pecan – 1104 Plymouth Landing Road – Block 1.01 - Lot 2.03 for a variance for lot coverage to install an inground pool and fence

Pat – clarified that the application tonight is for lot coverage

The Geoffrey Pecan, owner and Richard Rosa, president of Integrity Pool and Spa were both sworn in.

Geoffrey – he bought the house a year ago and his family knew that they would like to install a pool. He didn't know or was told anything about lot coverage when he purchased it. He submitted an application to the building department and was told that he was already over the lot coverage before adding a pool. He decided to remove some pavers to lessen the amount of lot coverage he'd be over. If the pool gets approved, he'd only be over by 2 or 3%.

Rich – he first wanted a larger pool, but he told him he had to go smaller. He has removed 608 sq. ft. of impervious coverage, so this application won't be for the amount of coverage initially asked for.

They want to install a 12 x 26 pool, that will be 5.5 ft. deep and it meets all the setback requirements.

Pat – explained the rules for granting variances and types of hardships that you need to state for the board to consider the application. You need to elaborate more on how you are advancing the purpose of zoning.

Rich – in terms of the pool, he doesn't feel it's a detriment. With removing some of the coverage before the pool is even installed, the lot coverage ends up being at 42% coverage if this board approves the pool installation. There is no drainage issue and it meets all the setbacks as well.

Eddie – typical hardships that we see are undersized lots, then by definition it would be a hardship to try and meet setbacks and lot coverage; the applicant is saying that any proposed development on this site would need a variance, since he's starting with a lot that already exceeds the ordinance.

It is unique to this piece of property, in that there is no way to install a pool that would not trigger a variance, because they would be increasing their lot coverage, no matter how big the pool was. He thinks there may be a hardship component to that. He asked if he's surrounded by developed land and nothing vacant bordering his to try to acquire. He asked the applicant what he wants to do with the fence, since the plan had a note on it.

Geoffrey – the fence was installed with the wrong side out, so it needs to be turned around. There is one side of his neighbor's fence on his property, so it will depend what they want to do. They will get something signed as to their approval to use the neighbor's side fence as their pool barrier.

Eddie – with the new information about pavers being removed, he redid the numbers and we are at about 43% lot coverage if the pool gets approved, which is 628 sq. ft. The gate will need to be lockable one. There shouldn't be any drainage impacts. If you do regrade it, you can't do it onto anyone's property. The pool you're describing tonight is the smallest you'd want, since you said you had a larger one proposed, but you reduced it. The existing fence in the rear is 6 ft. high and 5 ft. on the side and our ordinance requirements are 4 ft. minimum.

Greg – asked what the small square area behind the garage was that is on the survey

Geoffrey – it's additional space; like a work shop

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Geoffrey – it's additional space; like a work shop

Matt – asked to explain on the survey what was removed and to confirm that he is not going to replace any of it

Geoffrey – he won't be putting the pavers back and hopes to grow grass there

Exhibit 1 – a copy of the survey showing the pool was marked into evidence

Pat – opened the meeting to the public, but there was no comment.

Greg – asked if the easement that is between this property and the neighbors effects the drainage if going over the lot coverage

Eddie – he doesn't see any problem.

Jim – the motion should be to approve the installation of an inground pool, which would increase the lot coverage over the maximum 40% lot coverage to 43% with the condition of the fence being turned around; a lockable gate and any fencing will be ordinance compliant.

Motion was made by Chris Cottrell – second – Mike Reilly

ROLL CALL: Baltera, yes; Cottrell, yes; Koussoulis, yes; Lawler, yes; Reilly, yes; Seher, yes; Malia, yes

Appl. #4-2021 for Mark Dellinger, Jr. – 300 Delaware Avenue – Block 148 - Lot 24 for variances for: lot size, lot width, lot depth, front yard setback (Delaware Ave.), front yard setback (Wyoming Ave.), side yard setback and variance from 224-108E to construct a new single-family home

Marc Friedman, attorney for applicant, Kevin Dixon, applicant's engineer and Mark Dellinger, applicant all appeared.

Marc F. – listed the numerous variances needed. The lot in question is an older part of Absecon and most of the lots are small. This lot is 40 ft. x 80 ft. They have read the engineer's report and his comments and they will comply with all the conditions.

Kevin Dixon – the applicant would like to build a single-family home. There was a home there years ago, but was damaged due to fire. It sits next to three homes similar in size and character to the old home. This lot has sat vacant for years. The home would be built similar in size to the old one. It's in the R2, moderate density district, so it is a permitted use. It is undersized and its current size leads to the number of various requests. He believes they qualify for the C-1 hardship variance because of the exceptional narrowness, shallowness and the shape of this property. He believes that the property also qualifies for the C-2 flexible c variances in that it advances the purposes of zoning.

Exhibit A – plan

Exhibit B – colored rendering of the site plan showing the variances needed on the lot

The lot has 3200 sq. ft., where 10,000 sq. ft. is needed. There is no reasonable structure that could be built on this lot without any variances. It is condemned to being vacant unless we are able to find a reasonable use for this lot. Our goal was to find one compatible and able to fit onto the lot and complimentary to the neighborhood. Their house would be 25 ft. x 40 ft. and placed in a location similar to the location of the previous home and to the setback along Delaware Avenue. To do that, they are requesting a 10 ft. front yard variance on Delaware Avenue and a 10 ft. variance on Wyoming Avenue, where 25 ft. is required on both fronts. They also need a side yard setback of 5 ft. where 10 ft. is required. They do have a 30 ft. rear yard setback, which does not require a variance. This is less than 1/3 of the size required for this area. You usually look at properties that border it to try and alleviate the relief, but that is not an option. He then testified to the justification of the variances reading off from Sections A, E, G, H, I and J and they feel the benefits outweigh the detriments. Properties don't turn over a lot in that area; most houses are in good shape and the neighborhood doesn't have many 10,000 sq. ft. homes. The two choices would be to build a home or leave it vacant.

Marc – questioned Kevin as to the comments in Eddie's report as to: 3A; the parking requirements, the error on the survey dealing with the scale and references; the sidewalk and landscaping being replaced and the storm water draining towards the street.

Pat – asked Kevin to elaborate on the opinion that it's not detrimental to the zoning plan. Lots are required to be 10,000 sq. ft., so this is absolutely detrimental to the existing zoning plan.

Kevin - he believes it's to the contrary. It is not detrimental to the zone plan, because it's calling for 10,000 sq. ft. lots to be constructed. We don't have that. The Board has the ability to grant variances for this. Because it's contrary to the standards of the zoning ordinance doesn't meet it is deleterious to the zone plan.

Matt – then why do we even having zoning ordinances? In this zone, you need 10,000 sq. ft., so what's the purpose?

Kevin – he can't speak to what the purposes were at the time, but if you look at when it was passed, there were other small lots and rather than expand the number of smaller lots, the goal was for future development, let's make sure we have 10,000 sq. ft. for the lots. In this case, we can't make the lot bigger. He doesn't think the city wanted to wipe those lots off the map.

Mike – it says that the pre-existing foundation remains on the lot and he went to the lot and it's not in bad shape. Was there any intent made to reuse that foundation and stay within the old dimensions? It would accomplish the fact that there was a pre-existing home there that fell within set dimensions and so forth. It might be easier to approve something that had been there before than to expand it.

Marc F. – we have records to show it was originally built in 1928, so we could be talking about an old foundation.

Kevin – with building in the 21st century, it's going to have a foot print that will match the architectural amenities that would be required of a house just to be able to sell it. To force a design in that existing area, he doesn't think you would have the same character and have market value.

Pat – asked what the front yard setbacks were for the adjacent properties on Delaware and Wyoming Avenues

Kevin – we do not, but they are close to the same setback with this. If the board were inclined to improve this, it would make sense to measure and match those setbacks.

Greg – looking at the previous home, it appears to be further back along the homes on Delaware Ave. The proposed lot is 10 ft. from the front yard on Delaware and it's 30 from the rear. Was there consideration of moving the house back or is it because it matches?

Kevin – it actually could be slid back. It was intended to sit there to kind of match the adjoining property.

Eddie – Not only can you slide it back; you can slide back to the point where you'd have a conforming rear yard and front yard on Delaware Ave.

Mike – questioned the retaining wall around the two sides of the property and the internal steps that are shown that go down to Delaware Ave. They apparently come within 5 ft. of the front porch. How will that be handled?

Kevin – the retaining wall will either be replaced or reinforced, but probably replaced. The stairs would be a site amenity and part of the landscape feature that would be tied into the entrance. They might even be relocated.

Steve – asked the applicant if he was going to live in it or sell it. He was curious if the owner of the lot contacted the neighbor for them to buy it maybe.

Marc D. – he plans on selling it, but the For Sale sign has been up for at least a year

Matt – you personally don't own it yet, but when he purchased his lot from the City, he was told that he had to go through a ton of variances to build a house, so he was advised that if he didn't the neighbors behind him and along the side to sell him land, that he probably wouldn't get the approval. He did that and he purchased additional land to make it a conforming lot. Were you advised from the realtor or an agency do try to do that?

Marc D. – I basically knew that the variances would be needed and why he hired Kevin. He was not told by anyone of that though.

Eddie – there is a nuisance that is important to know. By definition isn't this proposal detrimental to the zone plan. The actual standard is not whether it's detrimental to the zone plan, but would impair the intent or the purpose of the zoning ordinance. The zoning ordinance or plan within each district, lists an intent and the purposes of the ordinance. He asked what was going to remain on the property. The trash enclosures belong to the neighbor, so something will be worked out. There are two sets of stairs and he assumes they will stay or be replaced with the wall that is to stay. The driveway will stay in the same location. He found the lot coverage to be 51.8%, so it needs to be addressed tonight. He had put the front porch in, but now there won't be a new porch, so he will recalculate now. He went through the list of variances:

1. Lot size
2. Lot coverage

3. Lot width
4. Lot depth
5. Front yard setback on Wyoming Avenue
6. Front yard setback on Delaware Avenues, unless the plan is revised to conform with the setback on Delaware Avenue as discussed
7. Side yard setback of 5 ft. where 10 ft. is required

Mr. Dixon provided testimony that 2 off street parking spaces will be provided, so no variance is required there.

Pat – the first three are pre-existing conditions, so we can't change those. We need 7 variances.

Pete McHugh – 304 Delaware Avenue – he is the neighbor right next door. The lot has been terrible looking and he wouldn't be opposed to having something there. What he is not in favor of is the 5 ft. setback on his side. He feels it's too close. The other neighbor has 7 ft. and that is still close. He questioned the big oak tree on the lot and what they plan on doing with it. He thinks the old house on the lot was farther away than 5 ft. and the trash cans are his. He couldn't afford buying it awhile back, but now he could, but it's a little too late. He did take care of it though.

Pat closed the public portion.

Chris – asked if there would be any hazardous waste or oil tanks on the lot.

Kevin – we are not aware of anything yet.

Eddie – he refigured the lot coverage out and it comes to 50% proposed and are we keeping the front yard setback as shown on the plan on Delaware Avenue.

Kevin – we can slide it back 5 or 10 feet, but they weren't in favor of 15 ft. We wanted to keep it consistent with the neighborhood.

Marc F. – we are willing to slide it back 5 ft. for a 15 ft. front yard variance or keep it at the 10 ft. variance request. Without surveys to show what the other homes have, we are just estimating 10 ft. We will agree to no closer than 10 ft., but if it looks better moved back to comply with the adjoining homes, we will push it back up to 5 ft. maximum, needing a 15 ft. variance.

Jim – the motion would be for a majority vote for a construction of a single-family dwelling with a lot area of 3200 sq. ft.; lot coverage of 50%; lot width of 40 ft.; lot depth of 80 ft.; front yard setback of not less than 10 ft. along Delaware Avenue and no closer than any adjoining property and structures on the property; a 10 ft. front yard setback on Wyoming Avenue and a side yard setback of 5 ft. and any other conditions mentioned in the engineer's report.

Marc F. – clarified structures as opposed to house. We do have retaining walls, so he's not sure if the measurements were taken from the retaining walls.

Pat – it has to be the house or the front deck.

Motion was made by Chris Cottrell – second – Mike Reilly

ROLL CALL: Baltera, yes; Cottrell, yes; Koussoulis, yes; Lawler, no; Reilly, no; Seher, yes; Malia, yes

Motion passes with a vote of 5 to 2

ADJOURNMENT

Motion to adjourn – Greg Seher – second – Steve Baltera

All were in favor.

Respectfully submitted,



Tina Lawler, Secretary

Approved: 6-15-2001